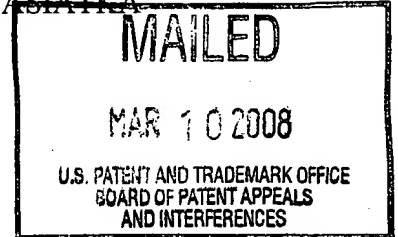


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

Ex parte: HERM SNYDER, ADRIAN E. SMITH and JIM NASIATKA

Application No. 09/919,278



ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received at the Board of Patent Appeals and Interferences on February 08, 2008. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matter requiring attention prior to docketing is identified below.

**APPEAL BRIEF**

**Summary of Claimed Subject Matter**

Appellant filed an Appeal Brief dated June 13, 2007, in response to the Final Rejection mailed November 13, 2006. The Appeal Brief is not in compliance with the new rules of 37 CFR § 41.37(c), which states in part:

***(v) Summary of Claimed Subject Matter.***

A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number and to the drawings, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claims argued separately, every means

plus functions and step plus function under 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function with references to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).

The “Summary of Claimed Subject Matter” appearing on page 7 of the Appeal Brief filed June 13, 2006, is deficient because it does not separately map independent claims 19 and 32 to the specification.

When the Office holds the brief to be defective solely due to appellant’s failure to provide a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v), an entire new brief need not, and should not, be filed. Rather, a paper providing a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v) will suffice. Failure to timely respond to the Office’s requirement will result in dismissal of the appeal. See MPEP § 1215.04 and §711.02(b).

### **CONCLUSION**

Accordingly, it is

**ORDERED** that the application is returned to the Examiner to:

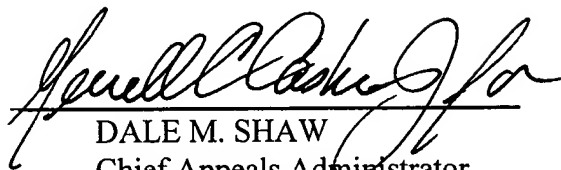
- 1) hold the Appeal Brief filed June 13, 2007, defective;
- 2) notify the Appellant to submit a “paper” which corrects the Appeal Brief, Summary of Claimed Subject Matter under 37 § 41.37(c)(1)(v);
- 3) acknowledge and consider any “paper” that may be submitted by Appellant to correct the Appeal Brief as required by 37 § 41.37(c)(1)(v); and

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4) for such further action as may be appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCES

By:

A handwritten signature in cursive script, appearing to read "Dale M. Shaw", is written over a horizontal line.

DALE M. SHAW  
Chief Appeals Administrator  
(571) 272-9797

DMS/jgr

NEKTAR THERAPEUTICS  
201 INDUSTRIAL ROAD  
SAN CARLOS CA 94070